



FYI Sales 5

Sales Tax Information for Out-of-State Businesses

GENERAL INFORMATION

Colorado sales tax law requires that state sales or use tax be paid on all tangible personal property that is sold, leased or delivered in Colorado for use, storage, distribution or consumption in Colorado. Generally, the vendor is liable for collecting and remitting sales taxes.

For out-of-state vendors, the responsibility for collecting and remitting either Colorado state sales tax or retailer's use tax depends upon the extent to which they are "doing business in this state" as defined by Colorado law:

"Doing business in this state" means the selling, leasing, or delivering in this state, or any activity in this state in connection with the selling, leasing, or delivering in this state, of tangible personal property by a retail sale...for use, storage, distribution, or consumption within this state. This term includes, but shall not be limited to, the following acts or methods of transacting business:

"(a) The maintaining within this state, directly or indirectly or by a subsidiary, of an office, distributing house, salesroom or house, warehouse, or other place of business;

"(b) The soliciting, either by direct representatives, indirect representatives, manufacturers' agents, or by distribution of catalogues or other advertising, or by use of any communication media, or by use of the newspaper, radio, or television advertising media, or by any other means whatsoever, of business from persons residing in this state, and by reason thereof receiving orders from, or selling or leasing tangible personal property to, such persons residing in this state for use, consumption, distribution, and storage for use or consumption in this state." [§39-26-102(3) (a) and (b), C.R.S.]

If a taxpayer is "doing business" as defined by paragraph (a) above, a Colorado sales tax account must be opened. If a taxpayer is "doing business" as defined by paragraph (b) above, a retailer's use tax account must be opened.

Caution: Before making a decision with respect to opening an account, review *National Geographic Society v. California Board of Equalization* 430 U.S. 551 (1977), and *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992).

SALES BY REMOTE SELLERS

Out-of-state businesses (remote sellers) that sell to Colorado residents solely through the Internet, telephone, or mail-order catalogs and that have no physical presence in Colorado or otherwise do business in this state are protected by *National Bellas Hess, Inc. v. Department of Revenue Illinois*, 386 U.S. 753 (reaffirmed by the recent *Quill* decision). These United States Supreme Court rulings protect mail-order catalog sales businesses from having to collect state sales taxes from purchasers in states where the remote-seller has no physical presence itself or through an agent.

COLORADO SALES TAX ACCOUNT

Apply for a state sales tax license online at www.Colorado.gov/coloradobusinessexpress and receive your Colorado Account Number (CAN) license number immediately. If you cannot apply online, you may complete and mail in the Colorado Sales Tax/Withholding Account Application (CR 0100). You will receive your license and account number by mail. Allow four to six weeks for processing. The cost of a standard sales tax license is \$16 for a two-year calendar year period, pro-rated in 6-month increments. [§39-26-103, C.R.S.] Sales tax licenses are renewable in January of every even-numbered year. For further information on sales tax licenses, see FYI Sales 9.

After opening a sales tax account, Colorado state sales tax and applicable state-administered local sales taxes must be collected and remitted under the same laws and regulations that apply to Colorado vendors. In addition, for items delivered for sale into the special taxing districts, the special district sales taxes are due as well. See Special Taxing District in this FYI.

RETAILER'S USE TAX ACCOUNT

To open a Colorado retailer's use tax account, apply at www.Colorado.gov/coloradobusinesssexpress and receive your Colorado Account Number (CAN) license number immediately. Otherwise, complete a Sales Tax/Wage Withholding Account Application (CR 0100). There is no fee. Allow four to six weeks to receive the retailer's use tax license in the mail.

After opening the account, Colorado state retailer's use tax must be collected and remitted. [§39-26-204 (2), C.R.S.] Colorado state retailer's use tax is the same rate as the 2.9% state sales tax and applies to the same types of transactions as state sales tax. Special district sales taxes must be collected on items delivered for sale into that district. That business is not, however, responsible for collecting and remitting local sales taxes that are administered by the state of Colorado.

If a vendor does not open a retailer's use tax account and does not collect retailer's use tax on taxable sales made to Colorado residents, the purchaser is still liable for and must pay consumer's use tax directly to the Department of Revenue. [§39-26-204 (1) (b), C.R.S.] Under such circumstances, the purchaser must file a Consumer Use Tax Return (DR 0252).

SPECIAL TAXING DISTRICTS

Special district sales taxes are filed on the Retail Sales Tax Return (DR 0100).

In Colorado there are varying special district taxes and special district tax rates which are applicable to specific jurisdictions within the state. The current special district taxes include: Regional Transportation District (RTD), Scientific and Cultural Facilities District (CD), Local Improvement District (LID), Local Marketing District, Mass Transit District, Rural Transportation Authority (RTA) taxes, Short-Term Rental Tax, County Lodging Tax, Metropolitan District Tax (MDT), Multi-Jurisdictional Housing Authority (MHA), and Public Safety Improvements Tax (PSI).

For detailed information about local sales rates in cities and counties where the state collects the tax, see Revenue Online, www.Colorado.gov/RevenueOnline, click the Business button, and see the listing under BusinessServices. Or refer to the publication Colorado Sales/Use Tax Rates (DR 1002).

RETAILER'S USE TAX

Retailer's Use Tax and special district use taxes are remitted on the Retailer's Use Tax Return (DR 0173). To find out whether an address that is being delivered to is within RTD/CD boundaries, refer to the Local Taxes by Address service available at www.TaxColorado.com

IMPORTANT NOTICE

All references to local sales taxes apply only to city, county and special district sales taxes that are collected by the state of Colorado. Home-rule cities that collect their own local sales taxes should be contacted directly for their tax laws and regulations. For information on which cities are home-rule cities and how they may be contacted, see Revenue Online, www.Colorado.gov/RevenueOnline, click the Business button, and see the listing under BusinessServices. Or refer to the publication Colorado Sales/Use Tax Rates (DR 1002).

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.